

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JAN F. BECKER,

Petitioner,

v.

Civil Action No. 5:07CV156  
(STAMP)

WARDEN HUDSON,

Respondent.

**ORDER AFFIRMING AND ADOPTING REPORT AND  
RECOMMENDATION OF MAGISTRATE JUDGE AND  
TRANSFERRING CIVIL ACTION TO THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

On December 3, 2007, the petitioner filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. The petitioner challenges a conviction and sentence imposed in the Holmes County Court of Common Pleas in Millersburg, Ohio. The petitioner is presently incarcerated at the Mansfield Correctional Institution located in Mansfield, Ohio. The petition was referred to United States Magistrate Judge John S. Kaull for an initial review and submission of proposed findings of fact and recommendation pursuant to Local Rule of Prisoner Litigation Procedure 83.13.

Magistrate Judge Kaull issued a report and recommendation recommending that petitioner's § 2254 petition be transferred to the United States District Court for the Northern District of Ohio. The magistrate judge informed the parties that if they objected to

any portion of the report, they must file written objections within ten days after being served with copies of the report. To date, no objections have been filed.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of any portion of the magistrate judge's recommendation to which objection is timely made. As to those portions of a recommendation to which no objection is made, a magistrate judge's findings and recommendation will be upheld unless they are "clearly erroneous." See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979). Thus, the report and recommendation of the magistrate judge in this case will be reviewed for clear error.

The petitioner is currently incarcerated in and was sentenced in the Northern District of Ohio. Accordingly, the instant § 2254 petition should have been filed in the Northern District of Ohio. See 28 U.S.C. § 2241(d). This Court finds no clear error in the recommendation of the magistrate judge that this case be transferred to the Northern District of Ohio.

This Court hereby AFFIRMS and ADOPTS the magistrate judge's report and recommendation in its entirety. The petitioner's § 2254 petition is hereby TRANSFERRED to the Northern District of Ohio.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this order to the petitioner and to the Clerk of the United States District Court for the Northern District of Ohio. The Clerk is further DIRECTED to

TRANSFER this case to the United States District Court for the Northern District of Ohio and to DISMISS the case from the active docket of this Court.

DATED: April 7, 2008

/s/ Frederick P. Stamp, Jr.  
FREDERICK P. STAMP, JR.  
UNITED STATES DISTRICT JUDGE